

REMARKS

Reconsideration and withdrawal of the rejection of all the claims now in the application (i.e. Claims 1, 3, 7-14, 16-28) is respectfully requested in view of the foregoing amendments and the following remarks.

Initially, the Examiner rejected the claims as being indefinite. Applicant has reworded the claims and included reference to the plane containing the longitudinal axis of each peg with that plane forming an angle with an anterior-posterior plane through the tibia component. In addition the claims require the longitudinal axis of the peg to be angled with respect to a planar bone contacting surface in the plane containing the longitudinal axis. It is felt that this better defines the compound nature of the angle.

The Examiner then rejected claims 9 and 23 because he considered they included part of the body as a claim element. Applicant has amended these claims as suggested by the Examiner to overcome this rejection.

The Examiner went on to reject the claims as being anticipated by Gerber U.S. Patent 5,871,541. Gerber shows only two pegs and the claims now require four pegs. Claim 28 has been added depending from claim 1 requiring that the four pegs extend in parallel. By this it is meant that the planes containing the longitudinal axis of each peg extend in parallel and in addition the angle of the longitudinal peg axis makes with respect to the planar bone contacting surface in that plane is identical among the pegs. Consequently, it is believed that since Gerber shows only two pegs with each peg extending from a bone contacting surface which are not in parallel, that this reference does not anticipate the amended claims.

The Examiner then rejected the claims as being anticipated by Caspari et al. U.S. Patent 5,207,711. The Examiner considered that the pegs 88, 90 and 96 met the

requirements of the as filed claims. Even if one were to consider bone screws 88 and 90 as pegs, it does not appear that planes containing the longitudinal axis thereof are angled with respect to an anterior/posterior plane parallel to a sagittal plane of the body in the ranges claimed. As can be best determined, it would appear that a plane containing the longitudinal axis of either screw 88, 90 or post 96 perpendicular to the planar bone contacting surface would be parallel (at 0°) to the anterior-posterior plane through the component. Likewise the pegs do not appear to make an angle in the plane containing the longitudinal axis with the plane of the base plate with the 15 to 60° and 30° to 45° ranges claimed. In addition, the reference does not teach four pegs extending from the bone contacting surface. As discussed above, claim 28 clearly distinguishes over the Caspari et al. reference in that the axis of the screws 88, 90 are not parallel.

Claims 26 and 27 are not anticipated because none of the plates shown have tapered bores for engaging tapers on angled ends of modular pegs.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 10/729,101

Docket No.: OSTEONICS 3.0-470

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

Raymond W. Augustin

Registration No.: 28,588

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicants

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